

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1556.00
COMPLAINT INVESTIGATOR:	Jane Taylor-Holmes
DATE OF COMPLAINT:	April 17, 2000
DATE OF REPORT:	May 17, 2000
REQUEST FOR RECONSIDERATION:	yes
DATE OF CLOSURE:	August 31, 2000

COMPLAINT ISSUES:

Whether the Avon Community School Corporation and the West Central Joint Services violated:

511 IAC 7-12-2(b) and (c) with regard to the school's alleged failure to make available a continuum of placement alternatives when the case conference committee was considering a change of placement for a student with a disability.

During the course of the investigation, additional issues were identified, which are:

Whether the Avon Community School Corporation and the West Central Joint Services violated:

511 IAC 7-12-3 with regard to the procedures used by the school to establish the student's need for homebound instruction; and

511 IAC 7-3-23 with regard to the school's failure to provide the student a free appropriate public education.

FINDINGS OF FACT:

1. The Student is nine years old and is eligible for special education and related services as a student with a primary diagnosis of an emotional handicap and a secondary diagnosis of other health impairment.
2. The *IEP* for the 1999-2000 school year was written on May 25, 1999. It indicates that the placement decision for the Student on the continuum was for full-time special education instruction in the EH classroom, and consultation one time per semester for OHI services in the resource/general education classroom. Two additional placement options were considered, but rejected. The initiation and duration of services dates listed on the *IEP* are August 17, 1999, to June 1, 2000. The Complainant gave written permission for this placement.
3. A case conference committee meeting (the "CCC") was conducted on December 13, 1999. A change of placement occurred, with four placement options on the continuum considered for the Student. The least restrictive environment determined for the Student was the general education classroom for the entire instructional day with monthly EH consultation. The Complainant gave written permission for the change of placement.
4. The Student's CCC met on January 20, 2000, per the complainant's request. The Complainant

contends that she wanted the Student's placement changed back to full-time services in the EH classroom because the Student was becoming anxious and her behavior was deteriorating. The Complainant further contends that she was told during the CCC meeting that placing the Student back into the EH classroom on a full-time basis was not an option.

5. The CCC report from the January 20, 2000 CCC meeting indicates that the Student was doing well in her current classroom and that her behavior was in the normal range for the second grade classroom. The CCC report also states that the Complainant felt the Student was beyond being in the EH classroom full-time, but that some contact with the EH teacher might be necessary. The CCC recommended that the Student continue in the second grade general education classroom, with math provided in the resource room. It was also determined that if the Student's behavior problems re-occurred, the CCC would reconvene to discuss other options utilizing the EH classroom. The Complainant agreed with the recommendations made during this CCC meeting.
6. The Student was suspended from School on Wednesday, March 22, 2000, after the bus driver found the Student had a pocket knife on her person. The Complainant was notified of the incident and informed that the suspension was to last through the end of the week. Upon picking up the Student from the School, the Complainant was also informed that the Student had threatened to harm herself. The Complainant then admitted the Student to a children's psychiatric unit at a local hospital later that same day.
7. A CCC meeting was held on March 27, 2000, to discuss the Student's regression in behavior, and the Complainant's request for homebound instruction ("Homebound"). The CCC report states, "This case conference was scheduled to review the *IEP* and to discuss possible changes in programming due to [Student's] recent regression in behavior, comments that she wants to hurt herself, and declining school performance in the second grade." The report states that, upon the advice of one of the Student's doctors, the parents requested that the Student be provided with homebound services. The report states that the Complainant was going to meet with the Student's physician to obtain a written diagnosis, evaluation data, and a recommendation regarding the services needed by the Student to meet academic and behavioral needs for the remainder of the school year. The CCC report further states that "the hospital staff is completing psychological/behavioral testing, [that] parents are expecting to get the results of the tests today," and once the "diagnosis and doctor's statement are received, the case conference committee will schedule a time to reconvene to review programming."
8. The Student was discharged from the children's psychiatric unit at the local hospital on March 29, 2000. The Complainant contends that she talked with the EH teacher twice on April 3, 2000, regarding the Student's discharge from the hospital; however, the school was closed for spring break from April 1st through April 9th, and the EH teacher was out-of-state much of that week. The Principal attempted telephone contact with the Complainant on March 29th, April 13th and 17th. The EH teacher attempted telephone contact with the Complainant on March 29th, 30th, 31st, April 6th, 10th, 11th, and 18th. The Complainant returned the EH Teacher's call and left a message on March 31st, but the two did not actually connect until April 10th at which time the Complainant advised that the Student was in respite care. The Complainant provided no additional information on the Student's continued absence from school or the need for homebound services between March 29th and April 13th. The School did not request that a CCC be convened during this time.
9. The Complainant contends that upon the Student's discharge, she encountered difficulty securing a physician's statement so that Homebound could begin. Three letters, all dated April 13, 2000, from three different providers, including the Student's physician, were faxed by the Complainant to the Corporation Director and the Principal on April 13, 2000. A letter also dated April 13, 2000, and written by the Complainant accompanied the three provider letters. The Complainant requested in her letter that the CCC convene immediately so that Homebound could begin. On April 14, 2000,

the Principal sent a letter to the Complainant confirming receipt of the Complainant's fax and the letters from the medical professionals that the school requested in order to initiate homebound services and indicating that a CCC would be convened. On April 17, 2000, the Principal received a fax from the Complainant indicating that her advocate could not attend a CCC on April 18th or 21st, and asked that the CCC be convened on April 20th. The Complainant faxed a letter to the Corporation Director on April 18th, confirming the CCC would convene on April 20th at 12:30.

10. The CCC met on April 20, 2000. The CCC report indicates that the Student's behaviors in the classroom began to deteriorate by the end of February 2000. Full or part-time special education instruction in a day program in a separate non-educational setting was a considered placement for the Student; however, Homebound was determined to be the least restrictive environment for the Student. The IEP indicates the 60-day review date for Homebound as June 1, 2000. The initiation and duration of services dates are listed as April 24, 2000, to June 25, 2000.
11. The Student began receiving Homebound on April 25, 2000, four times per week for two hours. On April 28, 2000, the Complainant sent a letter to the Corporation Director advising that the Student would not be available for homebound services from May 1 to May 15, 2000 due to participation in another treatment program. The Corporation Director sent a letter to the Complainant indicating the school's preference that the Student remain available for homebound services and that the other treatment program be delayed until the end of school.
12. On May 1, 2000, the Complainant placed the Student in a day treatment program, where the Student then spends the evenings in a therapeutic foster care home. The Student was discharged from the treatment program on May 15th, but was readmitted on May 23rd for "an indefinite period of time."

CONCLUSIONS:

1. Findings of Fact #2, #3, #4, and #5 indicate that a continuum of placement alternatives was presented for consideration when determining the least restrictive environment for the Student. Further, there is no indication found in the revised IEPs that the Complainant disagreed with recommendations made during the CCC meetings. No violation of 511 IAC 7-12-2(b) and (c) occurred.
2. Findings of Fact #6, #7, #8, #9, #10, #11, and #12 indicate the CCC would reconvene to determine appropriate services upon receipt of medical information. Although the CCC Report does not state that the School required this information before initiating homebound services, the Principal's letter to the Complainant on April 14, 2000 states that the School requested this information in order to initiate homebound instruction. The School did not initiate a CCC, despite the Student's discharge from the hospital, until it received medical information on April 14th. The school should have initiated a CCC meeting to discuss the appropriate educational services for the Student upon her discharge from the children's psychiatric unit. The procedures for the provision of Homebound for students with disabilities as indicated in 511 IAC 7-12-3, and the procedures for the provision of Homebound for hospitalized students as indicated in 511 IAC 7-12-4, were combined by the School in their determination to provide Homebound to the Student. Further, the School's requirement that medical information be submitted before homebound services could be initiated for a student with a disability is contrary to 511 IAC 7-12-3. A violation of 511 IAC 7-12-3 occurred.
3. Findings of Fact #7, #8, #9, #10, #11, and #12 indicate that there was interruption of the provision of educational services to the Student between the time the Student was discharged from the hospital and the initiation of homebound services. A violation of 511 IAC 7-3-23 occurred.

The Department of Education, Division of Special Education requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Avon Community School Corporation and the West Central Joint Services shall:

1. conduct an inservice training with all local school corporation professional personnel regarding the procedures for the provision of Homebound to students whose appropriate placement on the continuum is determined to be Homebound, as indicated in 511 IAC 7-12-3, and the procedures for the provision of Homebound for hospitalized students as indicated in 511 IAC 7-12-4. Documentation in the form of a copy of the inservice training agenda, a list of all personnel trained by signature and title, a statement assuring that all procedures under 511 IAC 7-12-3 and 511 IAC 7-12-4 shall be followed when Homebound is determined the appropriate placement for students with disabilities to benefit from special education and related services shall be submitted to the Division no later than July 7, 2000.
2. reconvene the Student's CCC to discuss the need for compensatory services as a result of an interruption of educational services. A copy of the CCC report indicating that compensatory services were discussed shall be submitted to the Division no later than July 7, 2000.